

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

Plaintiff,

vs.

**NOTICE OF MOTION FOR
DISPOSITIVE PRE-TRIAL
RELIEF**

Docket No 1:23-CR-99-EAW-JJM

JOHN THOMAS ERMIN, et al.

Defendant.

NOTICE OF MOTION

PLEASE TAKE NOTICE, that upon the affirmation of George V.C. Muscato, Esq., and Donald M. Thompson, Esq., co-counsel for Defendant JOHN THOMAS ERMIN, and upon the Indictment and all prior proceedings, the Defendant moves this Court for an order granting the following motion:

Relief Requested

1. MOTION TO DISMISS COUNT 24 CHARGING A VIOLATION OF 18 USC SECTION 922(g)(3) and 18 USC SECTION 924(a)(8) AS UNCONSTITUTIONAL IN ITS APPLICATION TO DEFENDANT ERMIN
2. MOTION TO SUPPRESS FRUITS OF SEARCH WARRANT OF JOHN ERMIN'S RESIDENCE, OR IN THE ALTERNATIVE, A HEARING PURSUANT TO FRANKS V. DELAWARE

3. JOINDER IN MOTIONS OF CO-DEFENDANTS

Dated: August 7, 2025

Yours,

/s/ George V.C. Muscato

GEORGE V.C. MUSCATO, ESQ.

Attorney for JOHN ERMIN

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/s/ Donald M. Thompson

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

Plaintiff,

vs.

Docket No 1:23-CR-99-EAW-JJM

JOHN THOMAS ERMIN, et al.

Defendant.

**MOTION TO DISMISS COUNT 24 CHARGING A VIOLATION OF 18 USC SECTION
922(g)(3) and 18 USC SECTION 924(a)(8) AS UNCONSTITUTIONAL IN ITS
APPLICATION TO DEFENDANT ERMIN**

GEORGE V.C. MUSCATO, ESQ., and DONALD M. THOMPSON, ESQ., being duly
sworn, depose and say:

1. We are attorneys licensed to practice in the State of New York and the United States
District Court for the Western District of New York, and we are co-counsel representing Defendant
JOHN THOMAS ERMIN.

2. Count 24 of the Indictment reads:

Count 24

(Unlawful User of Controlled Substance in Possession of Firearms).

The Grand Jury Further Charges that:

On December 7, 2023, in the Western District of New York, the defendant John
Thomas Ermin A/K/A Tommy O, knowing that he was an unlawful user of
controlled substances as defined in Title 21, United States Code, Section 802, did
knowingly possess in the affecting commerce, firearms, namely, a (i) Ruger,
Model 10/22, .22LR caliber semi-automatic rifle, bearing serial number 247-
30699; and (ii) Savage, model Mark II, .22LR caliber bolt action rifle, bearing
serial number 1529814; (iii) Marlin Firearms Corporation model 1936, .30-.30
caliber lever action rifle, bearing serial number 1145; (iv) Winchester, model 1200

Defender, 12-guage pump action shotgun, bearing serial number L1404443; and (v) Winchester, model 1200 Defender, 12-guage pump action shotgun, bearing serial number L1301970.

All in violation of Title 18, United States, Code, Sections 922(g)(3) and 924(a)(8).

3. The 18 USC 922(g)(3) relevant part reads it shall be unlawful for any person

“who is an “unlawful user” of or addicted to any controlled substance (as defined in Section 102 of the Controlled Substances Act. (21 USC 802).”

4. Section 18 USC 924 sets forth the penalty for conviction of the above section.

5. Defendant JOHN ERMIN is charged with violating the aforementioned sections by possessing firearms as an unlawful user of a controlled substance, gummies and small amount of marijuana.

6. In this motion, defendant is challenging the violation of Section 922(g)(3) as being unconstitutional as applied to him under the Second Amendment.

BACKGROUND

7. On December 7, 2023, pursuant to a search warrant, law enforcement descended upon the home of JOHN ERMIN at 41 Richmond Ave. Lancaster NY.

8. During the search the aforementioned rifles were seized together with small quantity of marijuana, commonly referred to as a recreational amount.

9. According to the property receipt and diagrams provided by the Government, most of the firearms were located in a safe and the marijuana was located on a nightstand in the bedroom.

10. Defendant ERMIN according to the notice of statement, made the following statement: he has edible marijuana in his residence clarifying that “the edible marijuana gummies was for recreational use.”

11. Defendant-ERMIN has no prior criminal record and has every legal right to possess the rifles that were found during the search of his home. The issue before this court is the term “unlawful user” with respect to recreational amount of marijuana found in Defendant’s home.

12. Of course, at the time of the execution of the search warrant, while marijuana was legal in New York State, it is still classified as a Schedule 1 drug for federal law enforcement purposes.

13. There is no factual basis to conclude that Defendant-ERMIN was under the influence of any illegal substance or otherwise intoxicated. Nor was there any drug paraphernalia located in Defendant’s home.

14. Defendant ERMIN is moving to dismiss this count under the framework established in the holding of New York State Rifle and Pistol Association, Inc. v. Bruen, 597 U.S.1 (2022) and subsequent decision, U.S. v Rahimi, 144 S. Ct. 1889 (2024).

15. The question is whether Section 922(g)(3) supports the possession of firearms of a sober person for past substance use.

16. Since Bruen, courts are instructed to consider whether the Second Amendment's plain text protects the ability of a defendant under these circumstances; and if so, whether the challenged restrictions are consistent with the nation's historical tradition of firearm regulation.

17. In the Second Circuit, the constitutionality of Section 922 when marijuana is involved has not been definitively resolved. In United States v. Bastian, 112 F.Supp. 2d 378, the court rejected a challenge as to constitutionality on the grounds of vagueness, but did not address the specific issue of marijuana use.

18. In Bastian, the defendant moved to dismiss on several grounds including that Section 922(g)(3) is unconstitutionally vague because it lacks a temporal element. Bastian argues that the section fails to designate a time frame concerning when the individual must use the controlled substance in connection with the possession of a firearm. The Court dodged this question by reasoning that the vagueness challenge to a statute may only be examined in light of the facts of the case at hand. In other words, after trial.

19. The Fifth Circuit Court of Appeals in United States v. Connelly, 117 F. 4th 269 (2024) addressing very similar facts as we have in the instant motion, found that Section 922(g)(3) as applied to possession of firearms and recreational amount of marijuana violated the Defendant's Second Amendment right. It should be noted that the Fifth Circuit did not find the aforementioned Section on its face unconstitutional, but narrowly as applied to the defendant in similar facts and circumstances as we have before the court today.

20. In Connelly, the court reasoned:

“That the Second Amendment protects the rights of individuals to keep and bear firearms for their self-defense, citing the United States Constitution Second Amendment. While the court recognized that like most rights though, the rights secured by the Second Amendment is not unlimited, citing Rahimi, 2024, 144 S.Ct. at 1897. Nevertheless, the Connelly court looked at the nation's historical tradition of firearm regulation to help delineate the contours of the rights challenged by the regulation in Section 922(g)(3).”

21. The court reviewed in detail the historical evidence including disarming the mentally ill, disarming dangerous individuals, and disarming intoxicated persons. In reference to the latter: “Boiled down, Section 922(g)(3) is much broader than historical intoxication laws. These laws may address comparable problems preventing intoxicated individuals from carrying weapons, but they do not impose a comparable burden on the right holder. In other words, they pass the “why” but not the “how to” as set forth in Rahimi 2024 144 S.Ct. at 1894 and Bruen 597 US at 27-30.”

22. The court further recognized that there is a “substantial difference between an actively intoxicated person and an unlawful user,” and therefore concluded that history and

tradition do not support a ban on possession of firearms based upon habitual or occasional drug use.

23. In conclusion, this is substantially the same fact pattern that exists in the present matter and based upon the presently existing Supreme Court decisions we asked the court to dismiss Count. 24.

**MOTION TO SUPPRESS FRUITS OF SEARCH WARRANT OF
JOHN ERMIN'S RESIDENCE, OR IN THE ALTERNATIVE,
A HEARING PURSUANT TO FRANKS V. DELAWARE**

24. On or about December 5, 2023, United States Magistrate Kenneth Schroeder, Jr., issued a search warrant for 41 Richmond Ave. Lancaster, NY and John Thomas Ermin (Exhibit A); included together were other premises and persons not the subject of this requested relief.

25. This address is the residence of Defendant-Ermin and his wife Stacy.

26. The defendant has a reasonable expectation of privacy in his home. We attached a Certificate of Standing to his non dispositive motions filed in front of Judge McCarthy on April 16, 2025, Docket no. 405-2. This affidavit was dated February 19, 2025 (Exhibit B)

27. The search warrant was executed on or about December 7, 2023. A return of the search warrant was filed thereafter. (Exhibit. C)

28. Upon information and belief, all of the items seized were non-contraband including legally possessed firearms and ammunition, with the exception of a small amount of gummies and loose marijuana (legal in New York State).

29. This Search Warrant, along with the search warrant issued for other premises and persons, was based on a master affidavit of FBI Special Agent Thomas V. Weis, dated December 5, 2023. A redacted affidavit has been provided to counsel with the proviso that it not be publicly disseminated to preserve the identity of cooperating witnesses.

30. To preserve confidentiality, the attorneys for Mr. Ermin and the prosecution have agreed that an unredacted copy of the search warrant application will be filed in camera with the Court.

31. The Fourth Amendment provides that a warrant may not be issued unless probable cause is properly established. In Illinois vs. Gates, 462 U.S. 213 (1983) The Supreme Court has described “probable cause” as a fair probability that contraband or evidence of a crime will be found.

32. It is respectfully requested that this court grant a hearing pursuant to Franks v Delaware, 438 U.S. 154 (1978) because what appears to be the deliberate use of inaccurate statements in the application.

33. Once considered, there is not substantial evidence remaining in the record supporting the Magistrate's decision to issue the warrant. Massachusetts vs Upton, 466 U.S. 727 (1984)

34. Special Agent Thomas Weis, an agent since 2017, is not qualified to opine as to the Outlaw Motorcycle Club.

35. On page 2 paragraph 3, Agent Weis tells us that he has participated in investigations involving organized crime. A hearing would support the fact that organized crime and the Outlaw Motorcycle Club (OMC) are completely different organizations. He further indicates that he's consulted with members of law enforcement with considerable experience investigating motorcycle gangs including the OMC. It's clear from the beginning of his affidavit that his opinions are not based on experience, but more so on consulting with others who are not identified, which does nothing more than cloak the agent with an aura of expertise. More so, he has done nothing more than regurgitate the DOJ webpage. (Exhibit D)

36. Other than being a Special Agent, he has never been qualified as an expert on outlaw motorcycle gangs let alone the OMC. In his affidavit beginning on Page 12 Paragraphs 27-39, 48-56, 60-70, Agent Weis offers his take on the OMC history, organization structure, characteristic, values, practice and activities; the main purpose of the Outlaws.

37. To enhance his lack of experience the agent proceeds to offer "anecdotal evidence"; nothing more than past history of former leaders of the OMC, and does not address

any facts of this case involving the Outlaws other than his attempt to superficially show probabilities, “this is what the Outlaws always do so it must be true.”

38. This is no different than a homicide detective being permitted to testify that in all cases he has worked on, the accused intended the death of his victim.

39. Even the “facts” that he does utilize in his application he has wrong and should have known the difference. In his application on December 5, 2023, he references that Defendant-Gerace made certain threatening remarks towards a federal witness. Agent Weis, Page 5-6, Paragraph 13(a)-(f) references certain statements that Defendant-Gerace made following his March 27, 2023 appearance in Federal Court, including “Fuck the rats” and “all snitches should die”; “any body can get touched; “I have serious people to tie up loose ends”.

40. Defendant-Ermin visited Defendant-Gerace shortly thereafter at Niagara County Jail on April 4, 2023. The implication is that Defendants conspired to eliminate a federal witness. In fact, that is not true according to the Government’s own statements.

41. The Court will recall that during Ermin’s detention hearings concluded on December 27, 2023, the Government backtracked (Exhibit E, redacted letter filed by AUSA Tripi) and acknowledged that Defendant-Gerace did not learn of the cooperation of the federal witness until the end of May 24, 2024 and did not make any alleged threatening statements until after that specific date. And such statements were not to the extent stated by Agent Weis in his

affidavit. In other words, the date that this conspiracy (which never existed) began and the timing, nature and extent of statements made is inaccurate.

42. Agent Weis proffers the same inaccurate information in his affidavit only one month before AUSA Tripi's letter and the return of the subject Superseding Indictments on January 5, 2024.

43. On page 3, paragraph 6, Agent Weis inaccurately references "member of the Outlaws (OMC) as unindicted co-conspirators in the criminal activity of PGC". In fact a review of Exhibit 2 in said search warrant application, Indictment 19 CR-227 at Page 2, Paragraph 4, simply references "that several of Gerace's male employees at Pharaoh's are members of a motorcycle club called the Outlaws Motorcycle Club (Outlaws MC).

44. The U.S. Supreme Court has condemned the deliberate reckless use of false statements, inaccurate statements in warrant applications. Franks vs. Delaware, 438 U.S. 154.

45. In essence, Defendant-Ermin visited his former employer at Niagara County Jail on two occasions, April 4, 2023 and July 6, 2023. He was further employed as a day manager of the PGC. Completely innocent behavior.

46. For reasons set forth, it is submitted that but for the false and inaccurate affiant's claims, the affidavit does not establish probable cause for the search warrant.

JOINDER IN MOTIONS OF CO-DEFENDANTS

47. Defendant-Ermin respectfully adopts and requests to join in any motions brought by his co-defendants which apply to him.

Dated: August 8, 2025

/s/ George V.C. Muscato

GEORGE V.C. MUSCATO, ESQ.

Attorney for Defendant JOHN ERMIN

/s/ Donald M. Thompson

DONALD M. THOMPSON, ESQ.

Attorney for Defendant JOHN ERMIN

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

CERTIFICATE OF SERVICE

Plaintiff

vs.

JOHN THOMAS ERMIN, et al.

CASE NO. 1:23-CR-99-EAW-JJM

Defendants

I hereby certify that on August 8, 2025, I electronically filed the foregoing with the Clerk of the District Court using its CM/ECF system, which would then electronically notify the appropriate CM/ECF participants on this case.

Dated: August 8, 2025

/s/ GEORGE V. C. MUSCATO
GEORGE V. C. MUSCATO, ESQ.
Attorney for John Ermin
107 East Avenue
Lockport NY 14094
(716) 434-9177
gmuscato@mdvfirm.com

EXHIBIT A

United States District Court
for the
Western District of New York

In the Matter of the Search of

(Briefly describe the property to be searched or identify the person by name and address.)

41 Richmond Avenue, Lancaster, New York, the residence of Outlaws MC
National President John Ermin (hereinafter "**Subject Premises 5**");

Case No. 23-mj- 158
(FILED UNDER SEAL)

SEARCH AND SEIZURE WARRANT

To: Any authorized law enforcement officer

An application by a federal law enforcement officer or an attorney for the government requests the search of the following person or property located in the Western District of New York *(identify the person or describe the property to be searched and give its location)*:

41 Richmond Avenue, Lancaster, New York, the residence of Outlaws MC National President John Ermin (hereinafter "**Subject Premises 5**"), described further in **Attachment A-5**, attached hereto and incorporated by reference as though set forth fully herein.

I find that the affidavit(s), or any recorded testimony, establish probable cause to search and seize the person or property described above, and that such search will reveal *(identify the person or describe the property to be seized)*:

The items set forth on the attached Schedule of Items to be Searched for and Seized, attached hereto as **Attachment B**, and incorporated by reference as though set forth fully herein.

All of which are evidence, fruits, and instrumentalities of a violations of Title 18, United States Code, Sections 1201, 1503, 1513(a)(1) and (f), 1512(b) and 1512(k), 1962(c) and (d), 1959(a)(1), 1959(a)(5), 1001(a), 924(o), 924(c)(1)(A), 2, and 4, and Title 21, United States Code, Sections 841(a)(1), 846, 856, which are more particularly described in the application for this warrant which is incorporated herein by reference.

YOU ARE COMMANDED to execute this warrant on or before December 19, 2023.

(not to exceed 14 days)

☒ in the daytime 6:00 a.m. to 10:00 p.m. ☐ at any time in the day or night because good cause has been established.

Unless delayed notice is authorized below, you must give a copy of the warrant and receipt for the property taken to the person from whom, or from whose premises, the property was taken, or leave the copy and receipt at the place where the property was taken.

The officer executing this warrant, or an officer present during the execution of the warrant, must prepare an inventory as required by law and promptly return this warrant and inventory to Hon. H. Kenneth Schroeder, Jr.

(United States Magistrate Judge)

☐ Pursuant to 18 U.S.C. § 3103a(b), I find that immediate notification may have an adverse result listed in 18 U.S.C. § 2705 (except for delay of trial), and authorize the officer executing this warrant to delay notice to the person who, or whose property, will be searched or seized *(check the appropriate box)*

☐ for ____ days *(not to exceed 30)*. ☐ until, the facts justifying, the later specific date of _____.

Date and time issued: December 5, 2023 2:21 p.m.

H. Kenneth Schroeder, Jr.

Judge's signature

City and State: Buffalo, New York

HONORABLE H. KENNETH SCHROEDER, JR.
UNITED STATES MAGISTRATE JUDGE

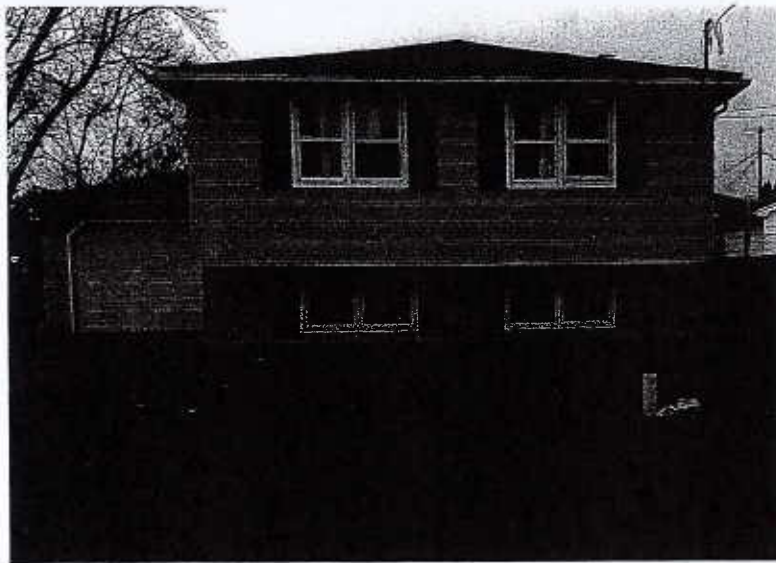
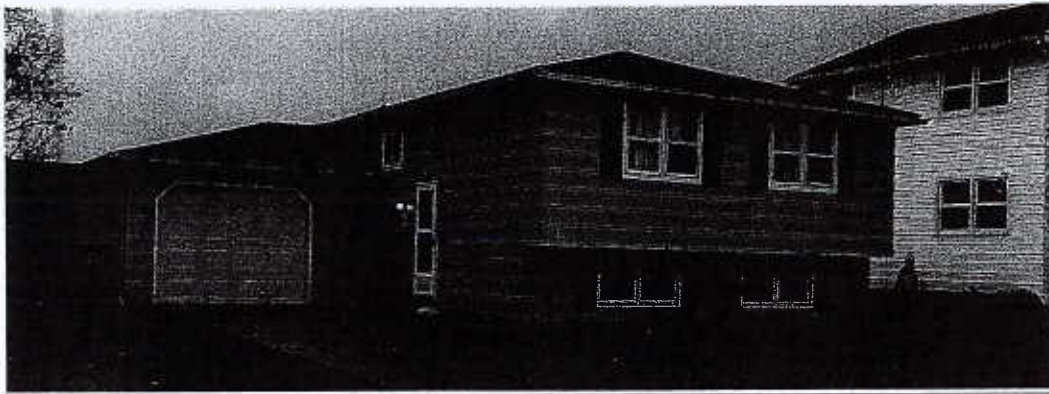
Printed name and Title

Printed name and title

A-5: SUBJECT PREMISES 5

41 Richmond Avenue, Lancaster, NY 14086 and curtilage, is a three-bedroom, two-bath, 1200 square foot single-family residence, and includes a single-car garage with an entry-door.

Photos of the **SUBJECT PREMISES 3** from various angles are set forth below as follows:



ATTACHMENT B

SCHEDULE OF ITEMS TO BE SEARCHED FOR AND SEIZED

Items comprising evidence of, or property designed for use, intended for use, or used in committing violations of Title 18, United States Code, Sections 1513(a)(1) and (f) (retaliation against a witness, victim, or informant and conspiracy to do the same); Title 18, United States Code, Sections 1512(b) and 1512(k) (witness tampering and conspiracy to do the same); Title 18, United States Code, Sections 1962(c) and (d) (RICO and RICO conspiracy); Title 18, United States Code, Section 1959(a)(1) (Murder in Aid of Racketeering); Title 18, United States Code, Section 1959(a)(5) (Conspiracy to Commit Murder in Aid of Racketeering); Title 18, United States Code, Section 1001(a)(1) (Material False Statements to an Agency of the United States); Title 18, United States Code, Section 924(o) (firearms conspiracy); Title 18, United States Code, Section 924(c)(1)(A) (possession of firearms in furtherance of drug trafficking); Title 18, United States Code, Section 2 (aiding and abetting); Title 18, United States Code, Section 4 (misprision of a felony); Title 21, United States Code, Section 841(a)(1) (possession with intent to distribute controlled substances); Title 21, United States Code, Section 846 (narcotics conspiracy); 856 (maintaining a drug-involved premises); (hereinafter referred to as the “Federal Violations”) consisting of:

- a) Evidence relating to witness tampering and retaliation, including the death of federal witness **CRYSTAL QUINN**;
- b) Evidence of **QUINN’S** prosecution (Case No. 1:23-MJ-11), including legal filings, docket sheets, references to case numbers, exhibits, witness lists, news articles, and notes;
- c) Firearms, items indicative of firearm ownership, including ammunition, holsters, stocks, firearm cleaning kits, firearm cases, operating manuals, and items used for target practice;
- d) Bullet proof vests, armor carriers, and armor plates;

- e) Small hand weapons including knives;
- f) Controlled substances and scales, plastic bags, cutting agents, and utensils;
- g) Books, records, receipts, notes, ledgers, airline tickets, money orders, and other papers relating to the transportation, ordering, sale and distributions of controlled substances;
- h) Documents, publications, literature, audio recordings (in digital and traditional form), videotapes (in digital and traditional form), photographs, flags, and other audio, visual, and physical evidence of association with the motorcycle clubs, including but not limited to the Outlaws MC and RBMC;
- i) Personal telephone and address books and lists, photographs, videotapes, letters, cables, telegrams, personal notes and other items reflecting names, addresses, telephone numbers, communications, association, and illegal activities of members or associates of motorcycle clubs, including but not limited to the the Outlaws MC and RBMC;
- j) Memorabilia including: plaques, vests, colors, patches, t-shirts, pins, stickers and documents as well as photographs, telephone lists, membership rosters, officer lists, bylaws, rules, operating regulations and evidence of their association with the motorcycle club and Outlaw Motorcycle Gangs, including but not limited to the Outlaws MC and RBMC;
- k) Notes and ledgers relating to association, and illegal activities of individuals involved in witness tampering and/or witness retaliation, and/or conspiracy to do the same and/or aiding and abetting to do the same related to violations of the above-referenced Federal Violations, including records related to motorcycle clubs, including but not limited to the Outlaws MC and RBMC;
- l) Correspondence, communications and documents, in any format, between and among **GOGOLACK, HINKLE, KNIGHT, RONCONE, ERMIN**, and/or any other individual, including communications with members of any motorcycle clubs related to the above-referenced Federal Violations;
- m) Documents, publications, literature, audio recordings (in digital and traditional form), video recordings (in digital and traditional form, photographs, and other audio, visual, and physical evidence of activity related to the above-referenced Federal Violations;

- n) Surveillance and recording equipment to include camera, electronic storage devices, DVRs and monitors to search for evidence related to the above-referenced Federal Violations;
- o) Mobile telephones, cellular phones, smart phones, other communication devices, laptops, computers, tablets, video equipment, DVRs, cameras, and other electronic and recording devices, as well as any digital media storage devices;
- p) Personal telephone and address books and lists, photographs, videotapes, letters, cables, telegrams, personal notes and other items reflecting names, addresses, telephone numbers, communications, association, and illegal activities of members or associates of motorcycle clubs, including but not limited to the RBMC and Outlaws MC;
- q) Documents, records, and items of personal property that tend to demonstrate the ownership and/or possession of the searched premises as such items relate to violations of the above-referenced Federal Violations;
- r) Records of telephone calls contained in billing statements, addresses and telephone numbers in books and papers which reflect names, addresses, and telephone numbers in photographs related to violations of the above-referenced Federal Violations;
- s) Any information, documents, records, photos, videos, or correspondence, in any format or medium, pertaining to use or ownership of the file(s), or that aid in the identification of persons involved in violations of the above-referenced Federal Violations;
- t) Memorabilia including; plaques, vests, colors, patches, t-shirts, pins, stickers and documents as well as photographs, telephone lists, membership rosters, officer lists, by-laws, rules, operating regulations and evidence of their association with Outlaw Motorcycle Gangs, specifically, the RBMC and Outlaws MC;
- u) Any videotapes, audiotapes, photographs, sketches, journal entries, mapping, calendar notations, writings, inanimate objects (e.g., undergarments, jewelry, personal effects) belonging to **CRYSTAL QUINN**, and evidence of the above-referenced Federal Violations;
- v) Any physical evidence linking **CRYSTAL QUINN** to the **SUBJECT PREMISES** and/or **SUBJECT PERSONS**;
- w) Photographs and any devices capable of taking a photograph or

recording a video related to violations of the above-referenced Federal Violations

- x) Bank account records, wire transfer receipts and records, Automated Teller Machine (ATM) receipts, bank statements, safety deposit box keys and records, precious metals, jewelry, and other items of value, financial records and foreign currency, CashApp or similar app-based monetary transfer tools records or receipts, to search for evidence related to the above-referenced Federal Violations, including any evidence related to obtaining, transferring, secreting, or spending sums of money made from the above-referenced Federal Violations;
- y) Quantities of cash and banking information, including but not limited to documents pertaining to bank accounts and credit cards controlled and maintained by motorcycle clubs, including but not limited to the RBMC and Outlaws MC;
- z) Large quantities of cash or evidence of unexplained wealth;
- aa) During the execution of the search warrant, law enforcement personnel are authorized to (1) press or swipe the fingers (including thumbs) of any individual, who is either found in possession of an electronic device, or who is found at the subject premises and reasonably believed by law enforcement to be a user of such a device, to the fingerprint scanner of such devices; (2) hold the device(s) found in front of the face those same individuals and activate the facial recognition feature; and/or (3) hold the device(s) found in front of the face of those same individuals and activate the iris recognition feature, for the purpose of attempting to unlock the device(s) in order to search the contents as authorized by this warrant.
- bb) Records of the cellular telephone number or numbers assigned to the telephone;
- cc) Any photographs or videos in the cellular telephone depicting **CRYSTAL QUINN** or others possessing or using controlled substances;
- dd) Any photographs or videos depicting firearms, lasers, and firearms accessories;
- ee) Any photographs or videos depicting locations known and unknown in Wellsville, New York, including but not limited to photographs or videos depicting 296 Scott Avenue, Wellsville, New York; 287 Scott Avenue, Wellsville, New York; 4290 Donovan Road, Alma, NY 14895; and 1614 Fanton Road, Willing, NY 14895;

- ff) Any physical information documenting or recording **GOGOLACK** or **QUINN**'s locations or activities between July 27, 2023, and August 1, 2023;
- gg) Any physical information documenting or recording the prosecutions of **GOGOLACK** and **HINKLE**, or the death of **QUINN**
- hh) records regarding the ownership and/or possession of the searched items.

As used above, the terms "records" and "information" include all of the foregoing items of evidence in whatever form and by whatever means they may have been created or stored including any form of computer or electronic storage (such as flash memory or other media that can store data) and any photographic form.

During the course of the search, photographs and/or video recordings of the searched premises may also be taken to record the condition thereof and/or the location of items therein.

Nothing more after this

United States District Court

for the
Western District of New York

In the Matter of the Search of

*(Briefly describe the property to be searched or identify the person by name and address.)*JOHN THOMAS ERMIN, a/k/a "Tommy O", DOB: 08/27/1969 (Subject
Person 1)Case No. 23-mj- 158
(FILED UNDER SEAL)

SEARCH AND SEIZURE WARRANT

To: Any authorized law enforcement officer

An application by a federal law enforcement officer or an attorney for the government requests the search of the following person or property located in the Western District of New York *(identify the person or describe the property to be searched and give its location):*

JOHN THOMAS ERMIN, a/k/a "Tommy O", DOB: 08/27/1969, described further in **Attachment A-6**, attached hereto and incorporated by reference as though set forth fully herein.

I find that the affidavit(s), or any recorded testimony, establish probable cause to search and seize the person or property described above, and that such search will reveal *(identify the person or describe the property to be seized):*

The items set forth on the attached Schedule of Items to be Searched for and Seized, attached hereto as **Attachment B**, and incorporated by reference as though set forth fully herein.

All of which are evidence, fruits, and instrumentalities of a violations of Title 18, United States Code, Sections 1201, 1503, 1513(a)(1) and (f), 1512(b) and 1512(k), 1962(c) and (d), 1959(a)(1), 1959(a)(5), 1001(a), 924(o), 924(c)(1)(A), 2, and 4, and Title 21, United States Code, Sections 841(a)(1), 846, 856, which are more particularly described in the application for this warrant which is incorporated herein by reference.

YOU ARE COMMANDED to execute this warrant on or before December 19, 2023.

(not to exceed 14 days)

☒ in the daytime 6:00 a.m. to 10:00 p.m. ☐ at any time in the day or night because good cause has been established.

Unless delayed notice is authorized below, you must give a copy of the warrant and receipt for the property taken to the person from whom, or from whose premises, the property was taken, or leave the copy and receipt at the place where the property was taken.

The officer executing this warrant, or an officer present during the execution of the warrant, must prepare an inventory as required by law and promptly return this warrant and inventory to Hon. H. Kenneth Schroeder, Jr.

(United States Magistrate Judge)

☐ Pursuant to 18 U.S.C. § 3103a(b), I find that immediate notification may have an adverse result listed in 18 U.S.C. § 2705 (except for delay of trial), and authorize the officer executing this warrant to delay notice to the person who, or whose property, will be searched or seized *(check the appropriate box)*

☐ for days *(not to exceed 30)*. ☐ until, the facts justifying, the later specific date of .

Date and time issued: December 5, 2023 2:22 p.m.

H. Kenneth Schroeder, Jr.
Judge's signature

City and State: Buffalo, New York

HONORABLE H. KENNETH SCHROEDER, JR.
UNITED STATES MAGISTRATE JUDGE
Printed name and Title

Case No.:23-mj-

Copy of warrant and inventory left with:

Inventory of the property taken and name of any person(s) seized:

I declare under penalty of perjury that this inventory is correct and was returned along with the original warrant to the designated judge.

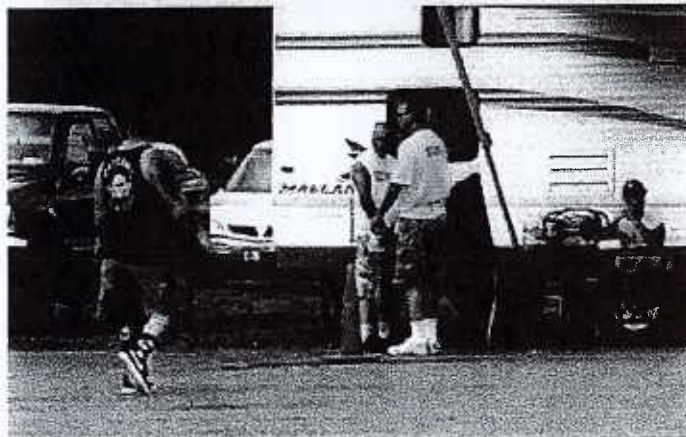
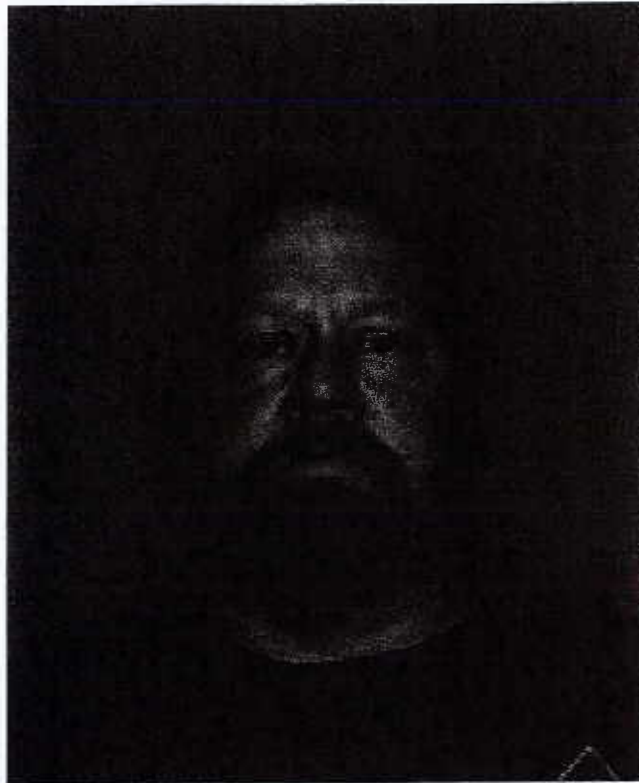
Date: _____

Executing officer's signature

Printed name and title

A-6: SUBJECT PERSON 1

SUBJECT PERSON 1 is John Thomas Ermin, a/k/a "Tommy O," a Caucasian male, with red facial hair, a left prosthetic leg, tattoos on the right arm extending from the shoulder to near the wrist, and of heavy build, born on August 27, 1969. Photos of **SUBJECT PERSON 1** are listed below.



Tammie O checking with security
"Rock n Blues" event
On 08/14/2016 _____

ATTACHMENT B**SCHEDULE OF ITEMS TO BE SEARCHED FOR AND SEIZED**

Items comprising evidence of, or property designed for use, intended for use, or used in committing violations of Title 18, United States Code, Sections 1513(a)(1) and (f) (retaliation against a witness, victim, or informant and conspiracy to do the same); Title 18, United States Code, Sections 1512(b) and 1512(k) (witness tampering and conspiracy to do the same); Title 18, United States Code, Sections 1962(c) and (d) (RICO and RICO conspiracy); Title 18, United States Code, Section 1959(a)(1) (Murder in Aid of Racketeering); Title 18, United States Code, Section 1959(a)(5) (Conspiracy to Commit Murder in Aid of Racketeering); Title 18, United States Code, Section 1001(a)(1) (Material False Statements to an Agency of the United States); Title 18, United States Code, Section 924(o) (firearms conspiracy); Title 18, United States Code, Section 924(c)(1)(A) (possession of firearms in furtherance of drug trafficking); Title 18, United States Code, Section 2 (aiding and abetting); Title 18, United States Code, Section 4 (misprision of a felony); Title 21, United States Code, Section 841(a)(1) (possession with intent to distribute controlled substances) Title 21, United States Code, Section 846 (narcotics conspiracy); 856 (maintaining a drug-involved premises); (hereinafter referred to as the "Federal Violations") consisting of:

- a) Evidence relating to witness tampering and retaliation, including the death of federal witness **CRYSTAL QUINN**;
- b) Evidence of **QUINN'S** prosecution (Case No. 1:23-MJ-11), including legal filings, docket sheets, references to case numbers, exhibits, witness lists, news articles, and notes;
- c) Firearms, items indicative of firearm ownership, including ammunition, holsters, stocks, firearm cleaning kits, firearm cases, operating manuals, and items used for target practice;
- d) Bullet proof vests, armor carriers, and armor plates;

- e) Small hand weapons including knives;
- f) Controlled substances and scales, plastic bags, cutting agents, and utensils;
- g) Books, records, receipts, notes, ledgers, airline tickets, money orders, and other papers relating to the transportation, ordering, sale and distributions of controlled substances;
- h) Documents, publications, literature, audio recordings (in digital and traditional form), videotapes (in digital and traditional form), photographs, flags, and other audio, visual, and physical evidence of association with the motorcycle clubs, including but not limited to the Outlaws MC and RBMC;
- i) Personal telephone and address books and lists, photographs, videotapes, letters, cables, telegrams, personal notes and other items reflecting names, addresses, telephone numbers, communications, association, and illegal activities of members or associates of motorcycle clubs, including but not limited to the the Outlaws MC and RBMC;
- j) Memorabilia including: plaques, vests, colors, patches, t-shirts, pins, stickers and documents as well as photographs, telephone lists, membership rosters, officer lists, bylaws, rules, operating regulations and evidence of their association with the motorcycle club and Outlaw Motorcycle Gangs, including but not limited to the Outlaws MC and RBMC;
- k) Notes and ledgers relating to association, and illegal activities of individuals involved in witness tampering and/or witness retaliation, and/or conspiracy to do the same and/or aiding and abetting to do the same related to violations of the above-referenced Federal Violations, including records related to motorcycle clubs, including but not limited to the Outlaws MC and RBMC;
- l) Correspondence, communications and documents, in any format, between and among **GOGOLACK, HINKLE, KNIGHT, RONCONE, ERMIN**, and/or any other individual, including communications with members of any motorcycle clubs related to the above-referenced Federal Violations;
- m) Documents, publications, literature, audio recordings (in digital and traditional form), video recordings (in digital and traditional form, photographs, and other audio, visual, and physical evidence of activity related to the above-referenced Federal Violations;

- n) Surveillance and recording equipment to include camera, electronic storage devices, DVRs and monitors to search for evidence related to the above-referenced Federal Violations;
- o) Mobile telephones, cellular phones, smart phones, other communication devices, laptops, computers, tablets, video equipment, DVRs, cameras, and other electronic and recording devices, as well as any digital media storage devices;
- p) Personal telephone and address books and lists, photographs, videotapes, letters, cables, telegrams, personal notes and other items reflecting names, addresses, telephone numbers, communications, association, and illegal activities of members or associates of motorcycle clubs, including but not limited to the RBMC and Outlaws MC;
- q) Documents, records, and items of personal property that tend to demonstrate the ownership and/or possession of the searched premises as such items relate to violations of the above-referenced Federal Violations;
- r) Records of telephone calls contained in billing statements, addresses and telephone numbers in books and papers which reflect names, addresses, and telephone numbers in photographs related to violations of the above-referenced Federal Violations;
- s) Any information, documents, records, photos, videos, or correspondence, in any format or medium, pertaining to use or ownership of the file(s), or that aid in the identification of persons involved in violations of the above-referenced Federal Violations;
- t) Memorabilia including; plaques, vests, colors, patches, t-shirts, pins, stickers and documents as well as photographs, telephone lists, membership rosters, officer lists, by-laws, rules, operating regulations and evidence of their association with Outlaw Motorcycle Gangs, specifically, the RBMC and Outlaws MC;
- u) Any videotapes, audiotapes, photographs, sketches, journal entries, mapping, calendar notations, writings, inanimate objects (e.g., undergarments, jewelry, personal effects) belonging to **CRYSTAL QUINN**, and evidence of the above-referenced Federal Violations;
- v) Any physical evidence linking **CRYSTAL QUINN** to the **SUBJECT PREMISES** and/or **SUBJECT PERSONS**;
- w) Photographs and any devices capable of taking a photograph or

recording a video related to violations of the above-referenced Federal Violations

- x) Bank account records, wire transfer receipts and records, Automated Teller Machine (ATM) receipts, bank statements, safety deposit box keys and records, precious metals, jewelry, and other items of value, financial records and foreign currency, CashApp or similar app-based monetary transfer tools records or receipts, to search for evidence related to the above-referenced Federal Violations, including any evidence related to obtaining, transferring, secreting, or spending sums of money made from the above-referenced Federal Violations;
- y) Quantities of cash and banking information, including but not limited to documents pertaining to bank accounts and credit cards controlled and maintained by motorcycle clubs, including but not limited to the RBMC and Outlaws MC;
- z) Large quantities of cash or evidence of unexplained wealth;
- aa) During the execution of the search warrant, law enforcement personnel are authorized to (1) press or swipe the fingers (including thumbs) of any individual, who is either found in possession of an electronic device, or who is found at the subject premises and reasonably believed by law enforcement to be a user of such a device, to the fingerprint scanner of such devices; (2) hold the device(s) found in front of the face those same individuals and activate the facial recognition feature; and/or (3) hold the device(s) found in front of the face of those same individuals and activate the iris recognition feature, for the purpose of attempting to unlock the device(s) in order to search the contents as authorized by this warrant.
- bb) Records of the cellular telephone number or numbers assigned to the telephone;
- cc) Any photographs or videos in the cellular telephone depicting **CRYSTAL QUINN** or others possessing or using controlled substances;
- dd) Any photographs or videos depicting firearms, lasers, and firearms accessories;
- ee) Any photographs or videos depicting locations known and unknown in Wellsville, New York, including but not limited to photographs or videos depicting 296 Scott Avenue, Wellsville, New York; 287 Scott Avenue, Wellsville, New York; 4290 Donovan Road, Alma, NY 14895; and 1614 Fanton Road, Willing, NY 14895;

- ff) Any physical information documenting or recording **GOGOLACK** or **QUINN**'s locations or activities between July 27, 2023, and August 1, 2023;
- gg) Any physical information documenting or recording the prosecutions of **GOGOLACK** and **HINKLE**, or the death of **QUINN**
- hh) records regarding the ownership and/or possession of the searched items.

As used above, the terms "records" and "information" include all of the foregoing items of evidence in whatever form and by whatever means they may have been created or stored including any form of computer or electronic storage (such as flash memory or other media that can store data) and any photographic form.

During the course of the search, photographs and/or video recordings of the searched premises may also be taken to record the condition thereof and/or the location of items therein.

Nothing more after this

EXHIBIT B

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

vs.

Docket No 1:23-CR-99

JOHN THOMAS ERMIN, ET AL

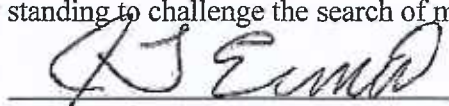
Defendants.

AFFIDAVIT IN SUPPORT OF MOTION

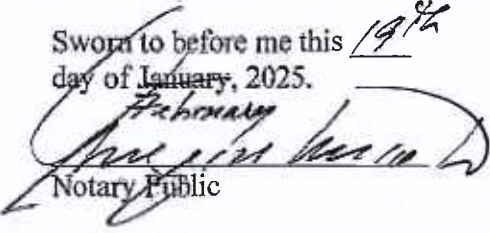
STATE OF NEW YORK)
) SS:
COUNTY OF NIAGARA)

JOHN THOMAS ERMIN, being duly sworn, deposes and says:

1. I am the Defendant in reference to the above captioned matter and as such, I am making this affidavit in support of the relief requested in my filing of motions.
2. That on December 7, 2023, members of law enforcement searched my home at 41 Richmond Avenue, Lancaster, New York, seizing numerous items of personal property.
3. That I resided in this home with my prior wife and since her death resided with my current wife.
4. Title to this property is in my name since 2002. This is a single family residence.
5. I offer this affidavit in support of my standing to challenge the search of my home.


JOHN THOMAS ERMIN, Defendant

Sworn to before me this 19th
day of January, 2025.


Notary Public

GEORGE V. C. MUSCATO
Notary Public, State of New York
Qualified in Niagara County
My Commission Expires 12/31/2025

EXHIBIT C

EXHIBIT C

FD-886 (Rev. 4-13-15)

EVIDENCE COLLECTED ITEM LOG

Print legibly. More than one line may be used for each item, if necessary.

Page 1 of 9

Date: 12/7/2023 Case ID: 281P-BF-3552646 Location: 41, Richmond Avenue, Lancaster, NY 14086 Preparer/Assistants: James Knapp, Retha Hunter			AGENTS NAMES REDACTED			
Item #	Description (e.g., One black Samsung flip phone; Serial #)	Location (e.g., Room)	Specific Location (e.g., Specific area w/ in room)	Collected by/ Observed by (First Name and Last Name)	Packaging Method	Comments (if needed)
1	Apple iPhone 14 Model: MQ8V3LL/A Serial Number: C2W1QVFFHW9 in black case	C	side table			
2	Apple iPhone 12 Pro Max Model: MG9H3LL/A Serial Number: F2LGS1270D45 in clear case	C	side table			
3	Apple Watch Model: A2622 Serial Number: LXG9DVFF0J	C	side table			
4	Apple iPad Pro Model: MPP22LL/A Serial Number: DMPWL38VHP53 in black case	C	side table			
5	Martin rifle, Model: 336W, Serial Number: MR30139F, Caliber: 30-30 Win with scope and black leather ammunition carrier in black case	A	Floor by couch			
5a	Six live rounds of Winchester 30-30	A	Floor by couch in gun case			
7	Make: FLIPIETTA Model: Unknown Caliber: 44 Serial Number: 227999 in brown leather holster	A	In corner desk			

GOV-00000754

FD-886 (Rev. 4-13-15)

EVIDENCE COLLECTED ITEM LOG*Print Legibly. More than one line may be used for each item, if necessary.*

Page 2 of 9

	A	In nightstand drawer		
8 Three patches				
9 HP Laptop Model: 17-cn0023dx Serial Number: 5C621674Z0 with charger	A	on desk		
10 Outlaw notebook	A	computer desk drawer		
11 Taser Model: NOVA XR500D with brown holster	A	inside desk		
12 2.5" USB2.0 Hard Drive Enclosure Kit Make: rocketfish Model Number: RF-HD25 Serial Number: Unknown in black case with cord	A	inside desk		
13 2.5" USB2.0 Hard Drive Enclosure Kit Make: rocketfish Model Number: RF-HD25 Serial Number: Unknown in black case with cord	A	inside desk		
14 Outlaw vinyl sign	E	under dresser		
15 Mail addressed to Dirk Diglar and Tommy O AOA	E	in basket		
16 Black Apple Iphone in black case	E	top drawer of dresser		
17 Outlaw/black leather belt and black gaiter	E	top drawer of dresser		
18 Outlaw clothing	E	in armoire		
19 Barebones knife in brown holster	E	top shelf in closer		
20 Two photographs	E	top of dresser		

FD-886 (Rev. 4-13-15)

EVIDENCE COLLECTED ITEM LOG*Print legibly. More than one line may be used for each item, if necessary.*

Page 3 of 9

21	\$2855 Cash	E	top of dresser in money clip		
22	Outlaw Memorabilia (two patches, lighter, card)	E	top of dresser		
23	Outlaw flag and four patches	E	on wall		
24	Handwritten notes	E	top of dresser		
25	Outlaw baseball bat	E	top of dresser		
26	Knife	A	desk drawer		
27	Gerber knife with black holster	A	on floor in front of desk		
28	Apple iPad Model: A1432 Serial Number: F9FNTPT1MF196	A	staircase		
29	maps, motorcycle club documents, legal documents	A	behind couch		
30	map	A	on end table		
31	photo album	A	Mantle		
32	Outlaw Memorabilia (two signs, shirt)	A	Mantle		
33	Motorcycle club patches, photos, and legal documents	A	desk drawer		

FD-986 (Rev. 4-13-15)

EVIDENCE COLLECTED ITEM LOG*Print legibly. More than one line may be used for each item, if necessary.*

Page 4 of 9

	A	in backpack	
34 Twenty seven live rounds of Winchester 30-30			
35 HP compact mint 102 Model: CPQ102JUN270L0MNA60NBNUCN12HA Serial Number: CNJ0088GT4 with black cord	A	desk drawer	
36 HP Pavilion laptop Model: DV6-1030US Serial Number: CNF8492B63 with black cord	A	between desk and wall	
37 Barebones knife with holster	B	workbench	
38 186 rounds of live ammunition, three speed loaders, one holster	B	workbench	
39 legal documents, intelligence report	B	on shelf	
40 Seagate Barracuda 1000GB Hard Drive Model: ST1000DM003 Serial Number: S4DF1Y23	B	on shelf	
41 financial documents	B	in plastic bin	
43a RCA camcorder Model: EZ2110-A Serial Number: FAA2QL462A3412 X2401	B	plastic bin	
43b Six knives	B	plastic bin	
44 Knife	B	workbench	
45a 259 rounds of live ammunition	B	in basket	
45b Six knives	B	in basket	

FD-986 (Rev. 4-13-15)

EVIDENCE COLLECTED ITEM LOG*Print legibly. More than one line may be used for each item, if necessary.*

Page 5 of 9

45c	Flintlock antique black powder pistol, Unknown make and model, Serial Number:1357	B	In basket		
46	Outlaw Memorabilia	E	in box in bottom drawer dresser		
47	leather binder with motorcycle club documents	E	between dresser and armoire		
48	Outlaw bandana	E	bottom drawer dresser		
49	Outlaw clothing	E	hanging in closet		
50a	One live round	E	on top of dresser		
50b	Two casings	E	on top of dresser		
51	Outlaw Trophy	E	on floor		
52	HP Compaq Desktop Model: DC5800 Serial Number: USH83301P1	B	on shelf		
53	iMac Desktop Model: A2145 Serial Number: C02YB60EW/3N	A	on desk		
54	Apple iPad Model: A1395 Serial Number: DYT19VHSDPHW	B	on plastic bin		
55	Motorcycle club documents	A	cabinet above desk		
56	Outlaw clothing	B	in box on floor		

FD-886 (Rev. 4-13-15)

EVIDENCE COLLECTED ITEM LOG*Print legibly. More than one line may be used for each item, if necessary.*

		F	In closet
57	Outlaw leather vest		
58	legal documents and financial documents	A	In desk drawer
59	Motorcycle club documents and financial documents	A	on desk
60	yellow colored jewelry - dog tag, AOA National necklace, Outlaws MC necklace, AOA National ring, Outlaws MC ring, Skull necklace	E	top of dresser
61	photo and motorcycle club patch	H	tv stand
62	yellow colored knuckles	H	tv stand
63	Blue Thumbdrive, no identifying markings	H	tv stand
64	Ruger rifle Model: 10/22 Caliber: .22LR Serial Number: 247-30699	H	
65	Marlin rifle Model: 1936 Caliber: 30-30 Serial Number: 1145	H	
66	Remington shotgun Model: 1187 Caliber: 12 gauge Serial Number: PC223867	H	
67	Winchester shotgun Model: 1200 Caliber: 12 gauge Serial Number: L1404443	H	
68	Ted Williams shotgun Model: 200 Caliber: 20 gauge Serial Number: P287624	H	
69	Savage Arms rifle Model: Mark II Caliber: .22LR Serial Number: 1529814	H	

Cardboard Box	

Page 6 of 9

GOV-00000759

FD-886 (Rev. 4-13-15)

EVIDENCE COLLECTED ITEM LOG*Print Legibly. More than one line may be used for each item, if necessary.*

Page 7 of 9

70	Mossberg shotgun Model: 500A Caliber: 12 gauge Serial Number: R194409	H		
71	Marlin rifle Model: Glenfield 60 Caliber: 22LR Serial Number: 2441352	H		
72	Mossberg shotgun Model: 930 Caliber: 12 gauge Serial Number: AF121657 with flashlight attached	H		
73	Winchester shotgun Model: 1200 Defender Caliber: 12 gauge Serial Number: L1301970	H		
74	GEHA shotgun - no model or serial number visible, Caliber: 12 gauge	H		
75	Rifle, no make listed, Model: 98, Caliber: Unknown, Serial Number: 7570	H		
76	\$36,835 Cash	H	top safe	
77	7 knives	H	in safe	
78a	1,361 rounds of live ammunition	H	in closet	
78b	Holster, gun cleaning tool and two metal parts	H	in closet	
79	Belt and 5 patches	F	in closet	
80	EMTEC 16 thumbdrive	F	in bag in closet	
81	Suspected cannibis edible gummies	H	on night stand	

FD-886 (Rev. 4-13-15)

EVIDENCE COLLECTED ITEM LOG*Print legibly. More than one line may be used for each item, if necessary.*

Page 9 of 9

94a	Outlaw clothing and duffel bag	C	In closet		
94b	soft armour vest	C	In closet		
95	Outlaw photo album	B	In purple container		
96	5 knives	E	on dresser		
97	Motorcycle club documents	C	on floor		
98	Apple laptop Model: A1932 Serial Number: RYH2T04TLWG with charger	C	on chair		
99	3 thumbdrives	C	In laptop bag		
100	4 rounds of 12 gauge (live ammunition)	C	In weapon (Item #88)		
101	Outlaw stickers	H	on tv stand		

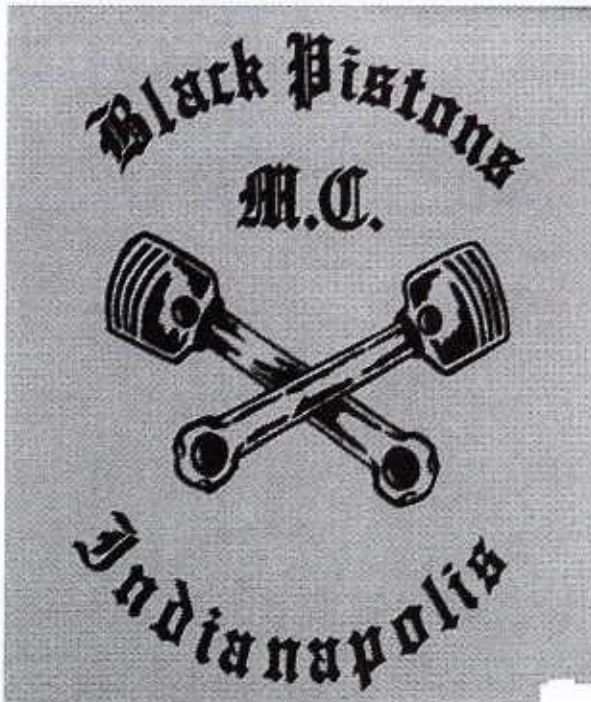
EXHIBIT D



PHOTO GALLERY

Outlaw Motorcycle Gangs (OMGs)

Thursday, April 29, 2021



Outlaw Motorcycle Gangs (OMGs) are organizations whose members use their motorcycle clubs as conduits for criminal enterprises. OMGs are highly structured criminal organizations whose members engage in criminal activities such as violent crime, weapons trafficking, and drug trafficking. There are more than 300 active OMGs within the United States, ranging in size from single chapters with five or six members to hundreds of chapters with thousands of members worldwide. The Hells Angels, Mongols, Bandidos, Outlaws, and Sons of Silence pose a serious national domestic threat and conduct the majority of criminal activity linked to OMGs, especially activity relating to drug-trafficking and, more specifically, to cross-border drug smuggling. Because of their transnational scope, these OMGs are able to coordinate drug smuggling operations in partnership with major international drug-trafficking organizations (DTOs).

Updated November 15, 2023

Topic

VIOLENT CRIME

Component or Office

Criminal - Violent Crime and Racketeering Section

The Outlaws Motorcycle Club (Outlaws) The Outlaws Motorcycle Club (Outlaws) have more than 1,700 members who belong to 176 chapters in the U.S. and in 12 foreign countries. U.S. law enforcement have more than 86 chapters in 20 states with over 700 members. The Outlaws also identify themselves as the A.O.A. (American Outlaws Association) and the Outlaws Nation. The Outlaws are involved in the production, transportation and distribution of methamphetamine, the transportation and distribution of cocaine, marijuana and, to a lesser extent, ecstasy. Activities including arson, assault, explosives, extortion, fraud, homicide, intimidation, kidnapping, money laundering, prostitution, robbery, theft and weapons violations. The Outlaws compete for territory.



EXHIBIT E

EXHIBIT E

Letter dated January 6, 2024, to the Hon. Elizabeth A. Wolford from AUSA Joseph M. Tripi, filed under seal Case No. 1:23 CR 99, Docket 34.